

§ 4.303

been mailed on the same date to the administrative law judge and to the affected heirs or devisees.

Upon failure to timely file a notice of purchase, the right to distribution of all unclaimed interests shall accrue to the heirs or devisees.

[36 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 26, 1990; 55 FR 46132, Nov. 1, 1990]

§ 4.303 Notice by surviving spouse to reserve a life estate.

When the heir or devisee whose interests are subject to the tribal option is a surviving spouse, the spouse may reserve a life estate in one-half of such interests. The spouse shall file a written notice to reserve with the Superintendent within 30 days after the tribe has exercised its option to purchase the interest in question, together with a certification that copies thereof have been mailed on the same date to the administrative law judge and the tribe. Failure to timely file a notice to reserve a life estate shall constitute a waiver thereof.

§ 4.304 Rehearing.

Any party in interest aggrieved by the probate decision may, within 60 days from the date of the probate decision, file with the administrative law judge a written petition for rehearing in accordance with § 4.241.

§ 4.305 Hearing.

(a) *Demand for hearing.* Any party in interest aggrieved by the exercise of the tribal option to purchase the interests in question or the valuation of the interests as set forth in the appraisal report may, within 60 days from the date of the probate decision or 60 days from the date of the decision on rehearing, whichever is applicable, file with the administrative law judge a written demand for hearing, together with a certification that copies thereof have been mailed on the same date to the Superintendent and to each party in interest; provided, however, that an aggrieved party shall have at least 20 days from the date the tribe exercises its option to purchase available interests to file such a demand. The demand must state specifically and concisely the grounds upon which it is based.

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(b) *Notice; burden of proof.* The administrative law judge shall, upon receipt of a demand for hearing, set a time and place therefor and shall mail notice thereof to all parties in interest not less than 30 days in advance; provided, however, that such date shall be set after the expiration of the 60-day period fixed for the filing of the demand for hearing as provided in § 4.305(a). At the hearing each party challenging the tribe's claim to purchase the interests in question or the valuation of the interests as set forth in the appraisal report shall have the burden of proving his or her position.

(c) *Decision after hearing; appeal.* Upon conclusion of the hearing, the administrative law judge shall issue a decision which shall determine all of the issues including, but not limited to, a judgment establishing the fair market value of the interests purchased by the tribe, including any adjustment thereof made necessary by the surviving spouse's decision to reserve a life estate in one-half of the interests. The decision shall specify the right of appeal to the Board of Indian Appeals within 60 days from the date of the decision in accordance with §§ 4.310 through 4.323. The administrative law judge shall lodge the complete record relating to the demand for hearing with the title plant as provided in § 4.236(b), furnish a duplicate record thereof to the Superintendent, and mail a notice of such action together with a copy of the decision to each party in interest.

[36 FR 7186, Apr. 15, 1971, as amended at 55 FR 43133, Oct. 26, 1990]

§ 4.306 Time for payment.

A tribe shall pay the full fair market value of the interests purchased, as set forth in the appraisal report or as determined after hearing in accordance with § 4.305, whichever is applicable, within 2 years from the date of decedent's death or within 1 year from the date of notice of purchase, whichever comes later.

§ 4.307 Title.

Upon payment by the tribe of the interests purchased, the Superintendent shall issue a certificate to the administrative law judge that this has been